

REMARKS

I. Introduction

Claims 1 to 22 are currently pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

II. Objection to Claim 19 Under 33 C.F.R. § 1.75(d)(1)

Claim 19 was objected to under 33 C.F.R. § 1.75(d)(1) as assertedly including terms for which the meaning is not ascertainable with reference to the specification.

While Applicants do not agree with the merits of this objection, to facilitate matters, claim 19 has been amended herein without prejudice to provide for a “hardware-implemented apparatus,” thereby obviating the present objection. In this regard, the term “hardware-implemented apparatus” is clear and gives rise to no ambiguity. Further, support for the features of the hardware-implemented apparatus of claim 19 may be found in the Specification, e.g., at page 10, line 27 to page 11, line 15.

Accordingly, since the meaning of all of the terms recited in claim 19 are clear, give rise to no ambiguity, and therefore readily ascertainable, it is therefore respectfully submitted that claim 19 complies with the requirements of 33 C.F.R. § 1.75(d)(1).

Withdrawal of the objection to claim 19 is therefore respectfully requested.

III. Rejection of Claim 19 Under 35 U.S.C. § 101

Claim 19 stand rejected under 35 U.S.C. § 101 as assertedly being directed to non-statutory subject matter.

While Applicants do not agree with the merits of this rejection, to facilitate matters and obviate the present rejection, claim 19 has been amended herein without prejudice to provide for a “hardware-implemented apparatus,” which is squarely within one of the four categories set forth in 35 U.S.C. § 101 -- *i.e.*, a machine or manufacture.

Withdrawal of this rejection of claim 19 is therefore respectfully requested.

IV. Rejection of Claims 1 to 22 Under 35 U.S.C. § 103

Claims 1 to 22 stand rejected under 35 U.S.C. § 103 as unpatentable over the combination of U.S. Patent Application Publication No. 2003/0208767 (“Williamson et al.”) and U.S. Patent Application Publication No. 2004/0003097 (“Willis et al.”). It is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable any of claims 1 to 22 for at least the following reasons.

Establishment of *prima facie* obviousness requires satisfaction of three separate criteria. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the proposed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). The reasonable expectation of success must be found in the prior art, and must not be based on applicant's disclosure. *In re Vaeck, supra*. Third, the prior art reference(s) must teach or suggest all of the claim limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Each of claims 1, 18, and 19, as amended herein without prejudice, recites, *inter alia*, the following:

... receiving from a user a user profile which identifies preferred media distribution sources ... searching a plurality of media distribution source types for media content based on the at least one search criteria and the user profile ... generating, from results of the searching, a schedule including scheduling information regarding the media content; and displaying the schedule to the user.

Thus, claims 1, 18, and 19 provide novel and counter-intuitive features in which, in response to a search request, a schedule is generated including scheduling information regarding media content from a plurality of media distribution source types, which, it is noted, often are scheduled in different manners. For example, movie theatre schedules include gaps as compared to TV program schedules which are, for the most part, continuous. Neither Williamson et al. nor Willis et al., whether considered alone or in combination, disclose or suggest these features.

The Office Action admits that Williamson et al. do not disclose searching a plurality of media distribution source types for media content based on search criteria and a user profile, and instead refers to Willis et al. as assertedly disclosing searching for content from a plurality of media distribution source types.

However, Willis et al. provide a portal type system in which user preferences are used for filtering articles from different sources. The articles are provided to the user in a portal setting in which the different article categories are presented in different frames. In order to perform the filtering, a content generator generates for each obtained article a new version including searchable metadata. Subsequently, a content based router 130 filters the articles in accordance with user preferences and accordingly displays the articles in the portal.

See Willis et al., e.g., pars. 0085 – 0096. Willis et al. do not disclose or suggest generating a results information of a certain type gleaned from the various filtered articles, and certainly do not disclose or suggest generating a schedule based on the filtered articles. Further, Willis et al. do not disclose providing its portal information responsive to search criteria. Instead, obtained articles are sorted based on a set of user preferences. The different articles are determined to be relevant based on different ones of the set of preferences and are provided without regard to particular search criteria.

Thus, even if the system of Williamson et al. is modified, as suggested by the Examiner, to include the features of the content delivery system of Willis et al., the modified system would at most provide a portal in which obtained articles, one of which may include a television program schedule, are filtered in accordance with user preferences and then provided to the user in portal frames in accordance with the information category to which the obtained articles belong. The modified system would not disclose or suggest the features of any of claims 1, 18, and 19, particularly, the features of generating a schedule in response to a search request, where the schedule includes scheduling information of results obtained from searching a plurality of media distribution source types.

Indeed, one skilled in the art would not arrive at the features of any of claims 1, 18, and 19 based on the combination of Williamson et al. and Willis et al. without an improper hindsight reconstruction based on Applicants' disclosure.

Accordingly, the combination of Williamson et al. and Willis et al. does not render unpatentable any of claims 1, 18, and 19.

Claim 16 includes subject matter analogous to that of claims 1, 18, and 19 and is therefore patentable for at least the same reasons set forth above in support of the patentability of claims 1, 18, and 19.

As further regards claim 16, as set forth in Applicants' Response dated February 14, 2007, claim 16 recites, *inter alia*, the following:

... *determining an availability of the media content from a plurality of media distribution sources that are selected in accordance with at least one user selection interpreted based on a user profile* ...

Williamson et al. do not disclose or suggest a user selection interpreted based on a user profile. Instead, Williamson et al. refer to input of a selection of the user profiles. The selected profiles are then used as criteria for a search. Willis et al. do not correct this critical deficiency of Williamson et al. For this additional reason, the combination of Williamson et al. and Willis et al. does not disclose or suggest all of the features recited in, and therefore does not render unpatentable, claim 16.

As for claims 2 to 15 and 20, which ultimately depend from claim 1 and therefore include all of the features recited in claim 1, it is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable these dependent claims for the same reasons set forth above in support of the patentability of claim 1. *In re Fine, supra* (any dependent claim that depends from a non-obvious independent claim is non-obvious).

As for claim 17, which depends from claim 16 and therefore includes all of the features recited in claim 16, it is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable this dependent claim for the same reasons set forth above in support of the patentability of claim 16. *Id.*

As for claim 21, which depends from claim 18 and therefore includes all of the features recited in claim 18, it is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable this dependent claim for the same reasons set forth above in support of the patentability of claim 18. *Id.*

As for claim 22, which depends from claim 19 and therefore includes all of the features recited in claim 19, it is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable this dependent claim for the same reasons set forth above in support of the patentability of claim 19. *Id.*

As further regards claims 20 to 22, as set forth in Applicants' Response dated February 14, 2007, the Office Action asserts that ¶ 0101 and Figure 15 of Williamson et al. disclose "interpreting at least a portion of the at least one search criteria in accordance with the user profile." The cited portions of Williamson et al. refer to inputting of an identification of the profile on which to base a search; the cited portions do not disclose or suggest inputting criteria which is then interpreted based on a profile. For this additional reason, it is respectfully submitted that the combination of Williamson et al. and Willis et al. does not disclose or suggest all of the features recited in, and therefore does not render unpatentable, any of claims 20 to 22.

Withdrawal of this rejection is therefore respectfully requested.

V. Conclusion

In light of the foregoing, it is respectfully submitted that all of the presently pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

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